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EXAMINER

EGWIM, KELECHI CHIDI

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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10/23/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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DETAILED ACTION

In response to the Decision filed 08/03/09 on the Petition filed May, 21, 2009, a new office action is hereby issued, including the required determination of "unity of invention" for the previously withdrawn claims 11-16, 21 and 25, now re-considered.

Election/Restrictions

1. Amended/submitted claims 11-16, 21 and 25 are directed to an invention that is independent or distinct from the original invention for the following reasons: Claim 11, as amended, from which claims 12-16, 21 and 25 depend, now clearly requires a multi-layered product/process prepare from the intermediate product of the originally presented single film and process for preparing the single film of 1-10, 17, 18, 20, 22-24 and 26-32.

Unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding "special technical features". The expression "special technical features" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution over the prior art. Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," should be considered with respect to novelty and inventive step.

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The originally presented intermediate product film/process is not so linked to the newly claimed multi-layered product/process to form a single general inventive concept under PCT Rule 13.1. because, under PCT Rule 13.2, they lack the same or corresponding “special” technical features for the following reasons: Claim 1, at least, is anticipated by or obvious over Hoshino et al., Bardman et al. and/or Gharapetian et al. and thus, the common matter of the inventions is well known. Consequently, the technical feature which links the claims, the single film from the process of claim 1, does not provide a contribution to the prior art is it is not a “special technical feature”, and so unity of invention is lacking.

2. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 11-16, 21 and 25 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-10, 17, 18, 20, 22-24 and 26-32 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a “filmable” shell, does not reasonably provide enablement for the term “filmable monomers”. The specification

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does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to determine if a monomer would meet the requirements of a filmable monomer in the invention, commensurate in scope with these claims. There is no description/definition for a "filmable monomer" in the originally filed specification.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-10, 17, 18, 20, 22-24 and 26-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoshino et al. (USPN 5273824), Bardman et al. (US 2002/0072560) or Gharapetian et al. (USPN 5229209), for reason cited in the previous action.

Response to Arguments

7. Applicant's arguments filed 12/19/2008 have been fully considered but they are not persuasive.

8. Applicants argument that "none of Hoshino et al, Bardman et al or Gharapetian et al disclose or suggest the particular relationship of the monomers used to make their respective core and shell layer(s), or the production of an aqueous film which, when water is removed, produces a polymeric film with a visual effect upon reflection of

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electromagnetic radiation, or which polymeric film comprises a matrix (formed from the shell) and discrete polymer particles (formed from the core) distributed in the matrix, all as required by the present claims” amounts to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

The cited references teach coating films prepared from emulsion polymers comprising the claimed three stages, and the products there from. Any visual effects would be inherent in the product as claimed.

It is noted that applicant's shell constitutes the matrix, thus any teaching of the shell constitutes a teaching of the matrix.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kelechi C. Egwim whose telephone number is (571) 272-1099. The examiner can normally be reached on M-T (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dr. Kelechi C. Egwim/
Primary Examiner, Art Unit 1796

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